

Missouri Hazardous Waste Management Commission Meeting
August 17, 2006
Agenda Item #16

Federal Energy Bill Abstract

Presenter: Ken Koon, Tanks Section

Issue: Update on underground storage tank (UST) provisions of the 2005 Federal Energy Policy Act

Information:

On August 8, 2005, President Bush signed into law the 2005 Federal Energy Policy Act. Section B of this act created the 2005 Underground Storage Tank Compliance Act (USTCA). This Act contains amendments to Subtitle I of the Solid Waste Disposal Act, the original legislation that created the underground storage tank (UST) program. This new law significantly affects federal and state underground storage tank programs, will require major changes to the programs, and is aimed at reducing underground storage tank releases to our environment.

The UST provisions of the Energy Policy Act focus on preventing releases. Among other things, it expands eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund, and includes provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

Recommended Action: Information only.



Missouri Department of
Natural Resources

UST Requirements of the 2005 Federal Energy Bill

Ken Koon, Tanks Section Chief

Background

- President Bush signed on August 8, 2005
- Subtitle B of Title XV established the Underground Storage Tank Compliance Act of 2005 (USTCA)
- USTCA imposes requirements on States receiving LUST funding

What are the new requirements

- Inspection Frequency
- Operator Training
- Public Record
- Delivery Prohibition
- Secondary Containment or Financial Responsibility/Certification
- Cost Recovery
- Additional Requirements

Energy Bill Workgroups

- National workgroups are working on each one of the topics
- These workgroups will develop draft guidelines for comment throughout 2006/2007

Inspection Frequency

- All active tank sites that have not been inspected since the 1998 deadline must be inspected by August 8, 2007
- All tanks must be inspected every three years. This cycle of inspections will begin on August 8, 2007 and must be completed by August 8, 2010.

Inspection Frequency

- How many sites have never been inspected
- 3,768 facilities active UST facilities
- Contract Inspectors ~1/3 of active UST sites
- Temporary closed inspections, hazardous substance tanks, etc.

Operator Training

- EPA must issue guidelines for training
- Publication of EPA guidelines Aug 8, 2007
- States must implement by August 8, 2009

Operator Training

- 3 distinct class of operators
- Training programs in place by states, companies, etc.
- High turnover rates
- Improvements in tank equipment technology
- Nature of the business

Public Record

- The state must make available a report
- updated annually (posted on web)
- program in place by Sept. 30, 2007
- start information gathering on October 1, 2007
- First report due ~December 2008

Public Record

- Report date
- # of UST facilities and tanks
- # of facilities inspected, dates, % compliance, compliance measurement statement
- Sources, dates, numbers, and causes of releases (as reported to the dept)
- Number of equipment failures (as reported to the dept)

Public Record - Sources

- Tank
- Piping
- Dispenser
- Submersible Turbine Pump
- Delivery Problem
- Other
- Unknown

Public Record - Causes

- Spill
- Overfill
- Physical or mechanical damage
- Corrosion
- Installation problem
- Other
- Unknown

Fuel Delivery Prohibition

- EPA must issue guidelines to implement
 - sites are ineligible for delivery
 - The mechanisms for identifying ineligible sites
 - Process for reclassifying ineligible sites as eligible
 - Determination of areas where lock-outs are not done (fuel availability in remote areas)
 - Development of a roster of stations that have been locked-out
 - Must be in place by August 8, 2007

Secondary Containment or FR

- Secondary containment (1,000 ft of water system)
- OR
- Financial responsibility for installers/manufacturers and certification for installers

Financial Responsibility

- FR for persons that manufacture UST's or piping or installs a UST system
- Senate Bill 1020 passed this year
- Must be in place by Feb 8, 2007
- Also requires that installer is certified or licensed, as per 10 CSR 20-10.020(D)&(E)

Cost Recovery

- Waiver of cost recovery against an owner/operator who cannot pay cleanup costs without significantly impairing his/her ability to continue in business.
- Deadline TBA - EPA guidance out soon

Additional Requirements

- State fund diversion - no diversion of funds
- State fund soundness - EPA may remove approval of state fund for FR mechanism without withdrawing state program approval
- State report on government owned tanks (August 8, 2007)

Additional Requirements

- Uses of LUST Trust Fund for preventative measures (ie. Inspections and enforcement)
 - Lust grant for cleanup & Lust grant for preventative measures
- Fuel oxygenate remediation

Federal Actions

- Waiver of federal sovereign immunity
- Compliance reports for federal tanks (2 yrs)
- EPA report on alternative inspection programs (August 8, 2009)
- Tribal lands

Timelines

- Financial responsibility/certification - February 8, 2007
- UST inspection 1998 -Aug 8, 2007
- State report on government owned tanks - Aug 8, 2007
- Fuel delivery prohibition - August 8, 2007
- Operator training - August 8, 2009
- UST inspection 3 year cycle -Aug 8, 2010
- Public record - Program in place by Sept. 30, 2007
- Cost recovery - TBA

Funding

- Appropriations for LUST are increased
- EPA must distribute at least 85% of LUST Trust monies to States and Tribes in 2007
 - EPA has distributed less in previous years

Sounds great....But...surely there is a catch!!!

Unfunded Mandate (FFY)

- No increase in LUST Funding for 2006
- May see a slight increase in LUST for 2007
- Can't use existing LUST for preventative because of conflict with Transportation law
- No increased funding (LUST) till 2008/2009
- STAG grant increases in 2007 ~\$100,000

Actions

- Development of stakeholder group(s)
 - training, fuel prohibition, financial responsibility, etc.
 - Initial stakeholder meeting in July/August
- Development of statutes and regulations

Questions??